United Nations CAT/C/SR.1632

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
14 May 2018

Original: English

Committee against Torture
Sixty-third session

Summary record of the 1632nd meeting*
Held at the Palais Wilson, Geneva, on Thursday, 3 May 2018, at 3 p.m.

Chair: Mr. Modvig

Contents

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Sixth periodic report of Czechia (continued)

* No summary record was issued for the 1631st meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.18-07141 (E) 090518 140518

1807141

Please recycle

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Sixth periodic report of Czechia (*continued*) (CAT/C/CZE/6; CAT/C/CZE/QPR/6)

1. *At the invitation of the Chair, the delegation of Czechia took places at the Committee table.*

2. **Mr. Faltýn** (Czechia), replying to the Committee's question about the decision of the European Court of Human Rights in *D.H. and others v. the Czech Republic* (CAT/C/SR.1629), said that the new inclusive education system, which had been introduced in 2015, was open to all children without distinction. The measures taken in response to the decision included significant amendments to the Education Act, such as the broadening of the definition of "special education needs" to include students who, owing to their health, culture of origin or other considerations, required support in order to exercise their right to education on an equal basis with others. Such support was offered free of charge and included counselling, special curricula, and admissions, testing and school-leaving policies, personalized education plans, special textbooks and equipment and other teaching aids. Basic support could be provided by the school directly, whereas more complex arrangements had to be recommended by the school counselling facility and agreed to by the student or his or her legal guardian. In the case of students with disabilities, the school counselling facility could recommend placement in a special class or transfer to a special school if support measures alone were insufficient to fulfil the right to education. The consent of the student or legal guardian was also required in such situations.

3. The mild mental disability annex had been abolished in favour of a single, mainstream framework education programme to be adapted to students' needs. In addition, students in special schools had been undergoing a fresh assessment by the school counselling facilities to identify possible mistakes in past diagnoses and promote the best interest of the child. Nearly 2,500 students had transferred from special schools to mainstream schools since the 2015/16 academic year.

4. Another consequence of the Court's decision was the reform of school counselling facilities. Their services should be provided on request by either a student or legal guardian or by the school. The role of the facilities was primarily to produce recommendations regarding necessary support measures and ensure that they were properly implemented. In addition, the role of the Czech School Inspectorate had been expanded to include advisory services with the aim of improving the education system and enhancing the implementation of measures for inclusiveness. For instance, the Inspectorate could be requested to review a recommendation issued by a school counselling facility.

5. Since the roll-out of inclusive education, fewer children with disabilities were educated in special schools: over 75 per cent of them were enrolled in mainstream establishments. The amended Education Act had required a 5 per cent increase in the education budget, and other measures had been put in place to assist Roma children, including the provision of school lunches, transportation and supplies. The amendment of the Education Act had also introduced compulsory preschool education for 5-year-old children. Special education needs had been taken into account in the development of the new preschool programme. Since the start of the programme, enrolment in preschool education had increased by 5 per cent, though more attention needed to be paid to socially excluded areas.

6. **Mr. Janků** (Czechia) said that efforts were ongoing to improve conditions in police cells. New facilities had been built and older ones refurbished, taking into account the recommendations of the Public Defender of Rights (Ombudsperson), the Subcommittee on Prevention of Torture and non-governmental organizations (NGOs), in particular with regard to direct sunlight and access to the outdoors. There were two types of police cells, namely short-term lock-ups, for up to 6 hours, and longer-term cells. The length of police custody depended on the offence and could not exceed 24 hours for administrative measures taken pursuant to the Police Act or 72 hours for criminal offences. Persons in police custody could request medical attention from a doctor of their choosing; however,

any examination was at their expense. Information on the rights and duties of detainees was available in all police stations in 20 language versions.

7. Body searches were an important means of protecting both persons in police custody and police officers. While it was true that there were no specific regulations governing body searches, it was understood that they were to be conducted when a detainee was suspected of being in possession of a weapon or other illicit object. When removal of clothing was necessary, the search was carried out in stages so that the detainee was never fully naked. Body searches were not recorded and were conducted in areas designed to preserve privacy and dignity. A list was kept of any confiscated items. The same procedures applied to minors. With regard to the presence of a police officer during medical examinations, efforts were made to balance the inmate's right to privacy with the needs of the police. It should be noted that the police officer was not physically present in the room but merely watched from outside.

8. The General Inspection of Security Forces had been established in 2012 as an independent body with the power to initiate criminal proceedings against members of all security forces, including the police, prison personnel and customs officials, under the supervision of the public prosecutor. Its director was appointed by the Prime Minister on the advice of a committee of the Chamber of Deputies and reported directly to him. In 2015 and 2016, the General Inspection had prosecuted over 500 cases involving a total of more than 320 security force members, though only a small proportion involved the improper use of force.

9. The Government published an annual report on extremism, including hate crimes. Among the most successful programmes to uphold public order and safety in socially excluded areas were the crime prevention assistant projects funded by the Ministry of the Interior. There were currently 500 assistants operating in 150 municipalities whose prime functions included providing a more visible presence on the ground and mediating local disputes. The number of violent attacks against minorities was decreasing, and prevention efforts were particularly focused on online hate speech.

10. **Ms. Chmelíčková** (Czechia) said that the issue of expelling persons from problematic countries, such as the Syrian Arab Republic, Afghanistan, Iraq and Somalia, was still under discussion between the Ministry of the Interior, the police and the Ombudsperson. Changes had nonetheless already been made; for example, assessments of the risk of refoulement had been strengthened, as had cooperation with the Ministry's country of origin information unit, and the police informed detained foreign nationals of the Council Regulation (EC) No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the member State responsible for examining an asylum application lodged in one of the member States by a third-country national (Dublin Regulation) and their right to free legal aid before being transferred to a detention facility. In late 2017, the Ministry, in conjunction with the Ombudsperson and the Office of the United Nations High Commissioner for Refugees, had launched a pilot project to test psychosocial interviews as a non-medical method of determining the age of unaccompanied minors. However, the Czech Republic did not have the requisite qualified professionals, though potential candidates had been identified and would be trained by international experts in the autumn of 2018. Some 1,450 applications for international protection had been filed in 2017; asylum had been granted to nearly 30 individuals from Myanmar, the Syrian Arab Republic, Turkey and Ukraine, while subsidiary protection had been granted to over 115 individuals, including stateless persons and nationals of Cuba, Iraq, Ukraine and Uzbekistan.

11. She could not confirm the allegations that some persons arriving at Prague Airport were denied access to the asylum procedure, but the Ministry of the Interior had recently reviewed operations at the airport and had found no deficiencies. Moreover, 2017 figures showed that over 10 per cent of all asylum applications were filed at the airport. Relevant information was visibly displayed in the border control area and the immigration teams were composed in such a way as to maximize the number of languages spoken. Cooperation was good between the management of the refugee facilities and the Ministry of the Interior, such that Ministry personnel had little more to do than hand over asylum seekers to the reception centre located at the airport.

12. Both the Police Act and the Aliens Act provided clear grounds for requiring asylum seekers to pay for their accommodation. However, following the intervention of the Ombudsperson, the procedural guarantees contained in the Aliens Act had been strengthened. Henceforth, decisions on whether or not a person was required to pay were transmitted to him or her in the presence of an interpreter or in a language he or she understood. In addition, foreign nationals were given 400 koruny when released from detention for purposes other than deportation or transfer to an asylum centre. They were also free to avail themselves of voluntary return programmes at the State's expense.

13. Her Government was making every effort to find alternatives to detention for asylum-seeking families with children. One alternative was the establishment of open reception centres for asylum seekers in transit to other European countries, at least in cases where the authorities had some assurance that the families would not abscond. Members of the Committee were invited to visit the country's detention and reception centres. She urged members in particular to visit the Bělá-Jezová centre, where conditions for families were very good and a new building with minimum security measures would soon be completed.

14. Administrative detention was not a sanction, but an administrative measure used as a tool of last resort. Its use was governed by the Aliens Act, the text of which had been reviewed by the European Commission.

15. The number of stateless persons in Czechia was very low. However, residence permits were available to them. Between 2009 and 2015, international protection had been granted to 174 persons: asylum in 19 cases and subsidiary protection in 155 cases. Approximately 600 persons had been issued with residence permits of various types under the Aliens Act. Since the amendment to the Act, the Ministry of the Interior was responsible for deciding on applications for residence under the 1954 Convention relating to the Status of Stateless Persons. Few such applications had been made, as stateless persons more usually requested asylum, and such requests fell under a different procedure. Given the low numbers involved, the Czech Administrative Code, together with the Aliens Act, provided a sufficient framework for dealing with stateless persons, and there was no need to introduce a special procedure. The Act on the Citizenship of the Czech Republic, No. 186/2013, had introduced many new provisions aiming at the prevention of statelessness, especially for children. Low numbers of applications made its effectiveness hard to assess, but a slight increase in applications had been detected. As of January 2017, almost 500,000 foreigners were present in Czechia, and permanent residency had been granted to 55 per cent of that number.

16. **Ms. Hodysová** (Czechia) said that definition of torture was being discussed as part of the amendment of the Criminal Code and included the criminal prosecution of less serious forms of ill-treatment. The Criminal Code fell under the responsibility of the Ministry of Justice. From 2011 to 2017 there had been 60 extraditions from Czechia and 75 extraditions from a foreign State to Czechia.

17. Pursuant to the amendments to the Act on the Legal Profession, as of 1 July 2018, access to legal aid would be reinforced. Applicants would be provided with legal services and representation in administrative proceedings or proceedings before the Constitutional Court. They would be entitled to at least 30 minutes of consultations, with a maximum of 120 minutes a year. The legal aid provided to migrants and asylum seekers in detention facilities had no time limit.

18. Regarding conditions in detention centres, as of 30 April 2017, the prison population in Czechia stood at 22,029 persons. That included 7.3 per cent women, 0.4 per cent minors and 7.6 per cent foreign prisoners. The significant decrease in the prison population in 2013 had been due to a general amnesty granted by the President of Czechia in January of that year, which had resulted in the freeing of more than 6,000 prisoners. The subsequent rise in the prison population was the result of recidivism and rearrest. Overall prison capacity was slightly more than 21,000, thus yielding an occupancy level of 105 per cent. Penal policy was currently aimed at reducing the prison population through the use of alternative punishments, including the decriminalization of less severe acts and the use of financial rather than custodial sanctions. House arrest under electronic control was undergoing tests,

and would be in operation as of June 2018. The policy, which was addressed in detail in the prison policy outline known as the Concept of the Prison System until 2025, also sought to reduce recidivism. Its core aim was to prepare prisoners for release and prevent recidivism through action plans on education, treatment for addiction, employment, health care and social reintegration. Plans were under way to build extensions to existing prison buildings to reduce overcrowding, and in 2017 the first open prison in Czechia had been inaugurated. That facility was used for prisoners arriving at the end of their sentences.

19. Solitary confinement as a disciplinary sanction was regulated by the Ministry of Justice. The sanction could not exceed 20 days for adults and 10 days for minors. Approval by a doctor was required for each prisoner before solitary confinement took place. Prisoners in solitary confinement could not work or take part in treatment programmes, but had access to outdoor exercise and legal, educational and religious reading material. In 2016, there had been 43 cases of solitary confinement, mostly for less than 7-day periods.

20. Currently, there were 80 minors held in Czech prisons. Pursuant to the Imprisonment Act, minors were kept separate from adult prisoners. Conditions were monitored by the prison service, the Public Prosecutor and the national preventive mechanism. Stress was laid on basic and vocational education and on social training. Attendance at schools outside the prison was also possible.

21. Health care was provided by three prison hospitals. More than 450 doctors and nurses were distributed among the 35 prisons in the country. Where prison health care was not available, care was provided by general hospitals. Prisoners in need of psychiatric care were placed in prisons providing such care. In the past 15 years there had been an average of 11 suicides per year, which was below the European average. Prisoners considered at risk of suicide were placed in special cells and monitored more frequently. In the past year there had been 36 deaths in Czech prisons, and the Committee would be provided with full information in that connection.

22. Prisoners' complaints were dealt with promptly, according to the procedure described in paragraphs 123 to 126 of the report. Compensation for violence by the security forces was regulated by the State Liability Act, No. 82/1998, concerning liability for damage incurred in the course of the exercise of public powers through a decision or incorrect administrative procedure. Victims of all forms of ill-treatment were entitled to financial assistance under the Act on Victims of Crime.

23. **Mr. Machačka** (Czechia) said that the Office of the Ombudsperson in Czechia, created in 2000, had not initially been envisaged as a national human rights institution according to the Paris Principles. However, in accordance with international obligations taken on by the country, it had developed into such a body. Its terms of reference included conducting inquiries, making analyses and then submitting recommendations to public institutions and other actors. While it was true that the institution had no means of enforcement, the effectiveness of the recommendations could be gauged to an extent by the fact that out of six recommendations made to the parliament in 2015, only one remained unfulfilled. One out of the five recommendations made in 2016 had been fulfilled, with the others simply requiring more time to carry out. The Ombudsperson had played an important role in areas such as better pay for working prisoners, the regulation of extraditions, improved conditions in police cells and in detention centres, guidelines for use of restraints in the medical service, inclusive education and education in general. As an independent body, founded in law, it now broadly fulfilled the Paris Principles, but further adjustments might be necessary before full accreditation status was possible, and discussions between the Government and the Ombudsperson were ongoing to that effect.

24. The Government's campaign against racism and hate violence had been launched in 2014, coordinated by the Agency for Social Inclusion. Its main activity centred around a media campaign featuring a web page aimed at challenging stereotypes and racist jokes and raising public awareness about discrimination. There was also a much-visited Facebook page. Three hundred "Hate-Free Zones", with restaurants, shops and services that had agreed to participate, had been established and were open to minority groups. The campaign included educational activities in schools and had so far trained 100 school mediators to resolve problems between groups. A training programme to assist the police in

combating hate crime and violence had also been established. A government website had been set up and a programme aimed at helping local authorities had been introduced to foster social inclusion. The campaign had ended in 2017, but many of its activities remained, and a new campaign, building on the more successful aspects of the previous one, was under preparation and would be launched in 2019.

25. **Ms. Hlaváčová** (Czechia) said that Czechia had received 1.5 million koruny from the European structural and investment funds, which would be used in the ongoing reform of the mental health-care system in the country. The aim was to establish 100 mental health centres throughout all regions of the country. The first five centres would open in July 2018. Emphasis had been placed on the protection of the human rights of mental health patients, and the quality of care in all psychiatric hospitals was at present being assessed with the involvement of the World Health Organization.

26. Regarding the use of restraint in psychiatric care, cage beds were forbidden by Czech law, and the Ministry of Health was considering issuing a total ban on net beds, the use of which was dwindling. The hospitals still using net beds had reduced their number, and their use was governed by very strict regulations. Alternative methods of restraint were employed. Use of restraint was governed by the Health Care Services Act, which stipulated that where restraint was used, local and centralized records had to be maintained. In April 2018, the Ministry of Health issued new, legally binding guidelines on the use of restraints in Czech medical facilities. Restraint was a measure of last resort, and the principle of the least restraining means must be selected. The guidelines also included time limits for use.

27. The court proceedings in respect of the death of Věra Musilová had ended in November 2013. After a thorough investigation, the case had been dismissed. Regarding the 2012 death at Dobřany Psychiatric Hospital, investigations by the police, the Ombudsperson and the Ministry of Health had led to a decision that the hospital services had not been guilty of neglect.

28. Training of medical personnel in the detection of signs of ill-treatment or torture formed part of the curricula of persons training in the specialities most likely to encounter such signs, such as general practitioners, paediatricians, psychiatrists and geriatricians. 2008 Ministry of Health guidance set out procedures for providing health care to persons at risk of domestic violence, including children and older persons. The guidance applied also in cases of suspicion of domestic violence and its scope was not limited to doctors, but included other medical personnel.

29. The Government was aware of the important role played by medical personnel in detecting signs of ill-treatment and the positive impact of their obligation to report cases of ill-treatment to the authorities. Under the Health-Care Services Act, physicians must maintain confidentiality; however, there were important exceptions, including the legal obligation to report crimes such as serious assault, sexual abuse, abuse committed by a person in a position of trust, and child abuse and neglect. The anticipated legislative amendment to introduce a general obligation for physicians to report suspected ill-treatment had not yet been enacted, but work would continue on a bill that balanced that need with existing confidentiality requirements.

30. In relation to surgical castration, she drew the Committee's attention to paragraphs 166 and 167 of the State party's report. The central commission of medical experts had approved three out of a total of nine applications for castration received since 2012. However, once the commission had made its recommendation, the applicant could freely choose whether or not to undergo the procedure.

31. **Mr. Čiulík** (Czechia) said that, under the Social Services Act, victims of violence, including sexual, gender-based and domestic violence, had at their disposal a variety of social services. Intervention centres offered persons at risk of violence free and immediate assistance. Shelters provided residential services for a transitional period for people who had experienced violence and no longer had a safe home. Some were reserved exclusively for victims of domestic violence, and their addresses were not made public. Professional and social counselling was provided to victims of violence in counselling centres immediately after they reported experiencing abuse. All victims of human trafficking could make use of social services for assistance and protection.

32. A basic overview of services provided to victims was provided in annex 3 to the State party's report. According to the Social Services Act, all social service providers must formally register with the State, giving details of their location, the service they provided, the personnel they employed, their opening hours, and the number of individuals they could receive. The State gathered data on social services both at the national and regional levels. The users of social services were divided into subgroups, including victims of gender-based violence. The Government would supply the relevant up-to-date data to the Committee and an overview of the funding allocated to social services in 2017.

33. **Ms. Baršová** (Czechia) said that the State party had already ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. The ratification process for the Optional Protocol to the Convention on the Rights of Persons with Disabilities had been discontinued due to parliamentary elections but was set to be resumed and completed.

34. The Committee for the Prevention of Domestic Violence and Violence against Women worked very closely with the Government and had recently been involved in the production of a gender equality campaign that had aired on both public and private television channels.

35. The issue of involuntary sterilization was still regularly discussed in the Government Council for Roma Minority Affairs, notably in relation to specific counselling, support and other assistance for victims. The Prime Minister had explained in an open letter to the Council of Europe Commissioner for Human Rights that the compensation of former victims of involuntary sterilization had not been approved by the Government owing chiefly to the difficulties associated with assessing cases from the distant past when medical records and other evidence had not been retained.

36. **Mr. Heller Rouassant** (Country Rapporteur) said that he was pleased that the statistics presented by the delegation showed that the incidence of racism, xenophobia and extremism had decreased since 2014 and that the State party had introduced new measures at Prague Airport as well as fostering closer cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR). While he appreciated that alternatives were being explored for the detention of asylum seekers with children, he was still unclear about what action the State party planned to take. Would it be creating new reception centres for families with children?

37. Although the representative of the Ministry of the Interior had said that no structural changes were necessary in relation to stateless persons, the Ombudsperson had found national legislation to be out of step with the definition of statelessness provided in the Convention relating to the Status of Stateless Persons. He encouraged the Government to amend its legislation accordingly as a matter of priority. He was also concerned that the State party, according to its replies, had not advanced with the legislative changes required to create a national human rights institution. The Government was encouraged not only to establish such an institution but also to broaden the mandate of the Ombudsperson, in line with the Paris Principles.

38. While the approval of new methodological guidelines on the use of restraints was welcome, assessing their implementation was difficult, as records were kept on the number of times that restraints were used but not on the methods employed. As the Ombudsperson and others had reported that net beds were still in use, he encouraged the Government to pay greater attention to how restraints were employed in practice.

39. With regard to procedures for detecting torture, he had not heard whether the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was included in training on identifying cases of torture, which would be in keeping with the Optional Protocol to the Convention. Lastly, he considered that the issue of providing compensation and redress to victims of involuntary sterilization had yet to be resolved satisfactorily.

40. **Mr. Touzé** (Country Rapporteur) said that it was encouraging that the State party had developed an inclusive education programme to solve the problems posed by the placement of Roma children in educational establishments for children with disabilities.

However, he would appreciate more information about its implementation in practice. As some reports suggested a high proportion of Roma children in special schools, he would welcome statistics on the number of children in special and ordinary schools that were Roma.

41. While the supplementary information provided on conditions of detention in police cells was welcome, the delegation had not explained how it planned to follow up on each of the criticisms made by the Ombudsperson in that regard. The absence of a formal protocol for carrying out body searches was a legal loophole; it would be in the interests of the Government to create a legal framework so that officials performing body searches could be sure to act in accordance with the law. In addition, the presence of law enforcement officials during medical examinations, albeit behind a screen, put psychological pressure on detained persons, particularly if they had previously suffered ill-treatment. It would be better to reserve police presence for exceptional cases rather than to keep it as the routine practice.

42. A number of non-governmental organizations had reported operational problems with electronic surveillance. Had the State party resolved those problems?

43. He wished to know whether prisoners were able to challenge the use of solitary confinement when imposed as a disciplinary measure, whether the State party would consider allowing NGOs access to monitor places of detention and interview prisoners as a means of providing external and independent oversight, whether prisoners identified as being at risk of suicide were automatically seen by a psychiatrist and when the State party intended to review its policy of obliging certain categories of detained persons to pay towards the costs of their incarceration, as recommended by the Committee in its previous concluding observations (CAT/C/CZE/CO/4-5). He would also welcome data on the health-care personnel employed in the prison health system, disaggregated by their profession, and more information on complaints by prisoners, in particular to explain why so few seemed to have led to formal investigations.

44. **Ms. Belmir** said that she wished to know what the State party's specific definition of statelessness was and whether it was in line with the 1954 Convention relating to the Status of Stateless Persons. She reiterated her concerns — also expressed by the United Nations High Commissioner for Human Rights in October 2015 — that body searches were routinely carried out on migrants and asylum seekers in order to confiscate money to cover the cost of their involuntary detention, and that the grounds on which foreign nationals could be detained for breach of their "duties" seemed vague.

45. **Mr. Hani** said that he wondered what could account for the seemingly small proportion of asylum applications that were granted by the State party in 2017 and what the current situation was of those persons whose applications had been denied. As the national preventive mechanism, the Ombudsperson had recently been given responsibility for monitoring deportations. He would therefore like to know whether the Ombudsperson was automatically informed of expulsions, whether it had oversight of expulsion decisions and whether it had the resources necessary to perform those functions.

46. **The Chair** said he was concerned that a dearth of coherent procedures and guidelines had resulted in a somewhat dysfunctional prison health-care system, which might explain why there had been some difficulty in recruiting health-care staff in sufficient numbers. He urged the State party to consider overhauling the entire system in order to establish clear safeguards, guidelines and procedures and to create an attractive working environment with defined career opportunities and continuous training for qualified medical professionals.

The meeting was suspended at 5.20 p.m. and resumed at 5.30 p.m.

47. **Mr. Faltýn** (Czechia) said that, in the light of the decision of the European Court of Human Rights in the case of *D.H. and others v. the Czech Republic*, which had ruled that the treatment of Roma pupils in the State party's education system amounted to discrimination, efforts had been made to collect data on the number of Roma children attending special and mainstream schools. Collecting data relating to ethnicity was, however, a sensitive subject in Czechia, particularly among the Roma population, which

was often unwilling to provide such information. The data, which would be provided to the Committee in writing, was therefore based only on estimates provided by school principals.

48. **Mr. Janků** (Czechia) said that the recommendations of the Ombudsperson were widely distributed within the Ministry of the Interior and police headquarters, in much the same way as were the decisions of the courts. Such recommendations were incorporated into police training and any necessary action was taken, including the development of new procedures. The best practices of other countries were also taken into account.

49. **Ms. Chmelíčková** (Czechia) said that, under the Aliens Act, safeguards to ensure individual assessments of the risk of refoulement, including for asylum seekers from the Syrian Arab Republic and Afghanistan, had been introduced in 2015. However, given the sheer scale of the migrant crisis in 2015, those measures had not always been consistently implemented in practice. Following the intervention of the Ombudsperson, specific measures had been taken to strengthen the system, and further improvements were also planned. As to the detention of families with children, they were housed in a reception centre for asylum seekers which had, until 1 May 2018, been a closed facility but was now also operating as an open centre for certain categories of persons. Regarding stateless persons, the Government did not believe that there were any procedural gaps stemming from the lack of a definition of statelessness. Stateless persons were not excluded from the system; they were treated in the same way as were other foreign nationals. The Administrative Code was applicable to all administrative proceedings, including those involving foreign nationals and, hence, stateless persons. In many cases, stateless persons sought asylum under the provisions of the Asylum Act or requested to regularize their status under the Aliens Act. Following concerns raised by the UNHCR, however, a dedicated member of staff and a new methodology had been established in the department responsible for asylum and migration. Nevertheless, no fundamental changes to the system were considered to be necessary, although the situation would continue to be closely monitored.

50. The detention of a foreign national was ordered on the grounds of either administrative expulsion — in the event that he or she had breached one of the duties set forth in paragraph 119 of the Aliens Act — or transfer to another European Union country under the Dublin Regulation. In the former case, the police were required to establish and record in detail any breach requiring an administrative expulsion. The police file and the subsequent decision to detain the foreign national were closely scrutinized by the courts. Regarding the seemingly low rate of approved asylum applications, it should be pointed out that, of the 1,450 cases processed in 2017, very few had actually involved persons from refugee-producing countries, such as the Syrian Arab Republic, Iraq or Belarus. For instance, just over 300 cases had involved repeated applications, which required substantial new evidence in order for asylum to be granted and, thus, were often unsuccessful; more than 400 had involved persons from Ukraine, which was considered, as many other European Union countries, to be a safe country of origin; and around 500 applications had involved persons from countries such as Armenia, the Republic of Moldova and Kazakhstan who were attempting to abuse the system in order to receive medical care in Czechia or to travel onwards to other European countries. A number of applications had also been processed under the Dublin Regulation, which meant that the merits would be considered in another country and not in Czechia. Taking that information into account, the rate at which asylum was granted seemed to be reasonable. Lastly, the Ombudsperson had two full-time staff members who monitored expulsions of foreign nationals and had also received funding from the European Commission Asylum, Migration and Integration Fund. It was therefore not only sufficiently able to monitor expulsions carried out in Czechia but also those effected by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).

51. **Ms. Hodysová** (Czechia), replying to questions raised by Mr. Touzé, said that the system of electronic monitoring was currently being piloted with a limited number of prisoners who were serving their sentences under house arrest. Many of the problems previously identified had been resolved and it was hoped that the system would be fully operational very soon. Prisoners had the right to appeal the use of solitary confinement as a disciplinary measure. The prison governor had five days in which to issue a decision and

many decisions were also subject to judicial review. As things stood, there were no immediate plans to allow NGOs to monitor conditions in places of deprivation of liberty. Many NGOs were, however, involved in treatment programmes and activities in places of detention and thus already had access to those facilities and contact with inmates. Preventive measures were immediately taken for detained persons deemed to be at risk of suicide. Moreover, training for prison staff on how to handle crisis situations included what to do in such an event. While no change in the policy requiring certain categories of detainees to pay towards the costs of their detention was currently foreseen, there were certain exemptions, which were detailed in the periodic report. An initial medical examination was always conducted on admission to a place of detention, with the aim of detecting any signs of ill-treatment. There were not, however, any specific procedures in place, as had rightfully been pointed out by the Chair. In that connection, the 2016 official policy outline of the prison system contained measures aimed at improving the working environment in the prison health-care system and attracting medical professionals. Lastly, regarding the data on complaints by prisoners, it should be noted that most complaints related to issues such as standards of accommodation and health care. Only around 10–20 complaints concerning ill-treatment were made each year.

52. **Ms. Hlaváčová** (Czechia) said that the Health-Care Services Act regulated the use of restraints in psychiatric institutions. While net beds, which prevented a patient from freely exiting the bed, could still be used, in practice they were used only rarely and only following an individual assessment. The vast majority of institutions had, in fact, already phased out the use of net beds and the Ministry of Health was considering introducing a full ban. Nevertheless, health-care providers were required to maintain comprehensive records on the use of restraints, while bearing in mind legislation relating to the protection of personal data.

53. **Ms. Baršová** (Czechia) said that she wished to thank the Committee for the fruitful and constructive dialogue, which had provided the opportunity to inform the Committee of the progress made and the challenges that still remained in Czechia. The Committee's comments and recommendations would duly be reflected on in an effort to find ways to further improve the situation.

54. **The Chair** said that, in the interests of maintaining an ongoing dialogue, the State party was invited to submit, in addition to the follow-up report on specific issues, an implementation plan for the recommendations contained in the concluding observations.

The meeting rose at 6 p.m.

United Nations CAT/C/SR.1633

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
14 May 2018

Original: English

Committee against Torture
Sixty-third session

Summary record of the 1633rd meeting
Held at the Palais Wilson, Geneva, on Friday, 4 May 2018, at 10 a.m.

Chair: Mr. Modvig

Contents

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Third periodic report of Tajikistan

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.18-07243 (E) 090518 140518

1807243

Please recycle

The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Third periodic report of Tajikistan (CAT/C/TJK/3; CAT/C/TJK/Q/3; and CAT/C/TJK/Q/3/Add.1)

1. *At the invitation of the Chair, the delegation of Tajikistan took places at the Committee table.*

2. **Mr. Rahmon** (Tajikistan), introducing the State party's report, said that a plan of action to implement the recommendations of the Committee and the Special Rapporteur on torture following his visit in 2012 had been adopted in 2013. The Special Rapporteur had reported favourably on the status of implementation of those recommendations after his follow-up visit in 2014. In 2017, the Government Commission on International Human Rights Obligations had gone through fundamental reform with a view to improving its coordination of the work of the relevant State bodies in that area. Under its new regulations, the work of the Commission was under the supervision of the Office of the Commissioner for Human Rights and civil society, which participated in the activities of the Commission in a consultative capacity. Representatives from the ministries had been appointed to coordinate with the Commission in drafting reports and acting on international recommendations. A national action plan for the period 2017–2020 had also been adopted to implement the recommendations made within the framework of the universal periodic review.

3. A bill to amend article 143[1] of the Criminal Code, aimed at preventing torture and reinforcing penalties for offenders, was currently under consideration. With a view to giving effect to the Committee's recommendations on the independence of the judiciary from the executive branch, the Council of Justice had been dissolved under constitutional amendments introduced in 2016 and its powers had been transferred to the Supreme Court.

4. In June 2017, a national action plan for the reform of the juvenile justice system had been adopted for the period 2017–2021 to ensure respect for the rights of young offenders and provide appropriate treatment, including rehabilitation and reintegration into society, and to offer psychological care for child witnesses and victims of crime. With the support of the United Nations Children's Fund (UNICEF) and civil society, training courses on juvenile justice had been conducted for procurators, judges and staff of the Office of the Commissioner for Human Rights. In 2016, the Office of the Commissioner for Children's Rights had been established, with the power to visit places of detention and special institutions without prior authorization and investigate complaints of torture or ill-treatment.

5. The Government was currently considering ratification of the Optional Protocol to the Convention under the national action plan on the implementation of the recommendations of the Human Rights Council. In 2013, the Commissioner for Human Rights had set up a working group composed of representatives of State bodies, academia and civil society to promote the ratification of the Optional Protocol. It reviewed national legislation and studied existing models of national preventive mechanisms and had carried out information sessions on the Optional Protocol for State authorities, civil society and the media, in which some 300 persons had participated. An independent group attached to the working group that had been established to monitor places of deprivation of liberty had conducted over 60 visits to correctional institutions, military units and military recruitment offices between 2014 and 2017.

6. In 2016, amendments had been made to the Code of Criminal Procedure and the Act on Procedures and Conditions for the Custody of Suspects, Accused Persons and Defendants with a view to strengthening fundamental legal safeguards for detained persons. During the reporting period, 20 cases of unlawful detention had been identified and investigated by the Office of the Procurator General. Over 30 seminars had been held to inform the relevant officials of the amendments. Evidence obtained through torture was not admitted in proceedings and officials found guilty of permitting torture for that purpose were held accountable. During investigations into claims of torture, alleged offenders were temporarily removed from their posts and interviews were conducted with all suspects,

witnesses, medical professionals and staff working in the detention facility. Decisions had been issued on reparation for victims of torture in eight criminal proceedings, including two penalties involving monetary compensation.

7. Under the Code of Criminal Procedure, as amended in 2014, a person could not be extradited if there was evidence to suggest that he or she might be tortured in the receiving State. Assessments of the risk of torture took into account reports from the media, international organizations and non-governmental organizations (NGOs), and the views of the person to be extradited. The Government of the receiving State was required to provide written assurances that the person in question would not be subjected to torture or ill-treatment.

8. Working groups had been set up to ensure that training in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was provided to judges, lawyers, forensic specialists, and doctors and psychiatrists working with persons in detention, in cooperation with international organizations and civil society associations. Under the Ministry of Health and Social Protection, protocols had been drawn up on medical assistance for persons in detention, requiring medical professionals to conduct examinations of detainees to ascertain whether they had been subjected to torture or ill-treatment, to document any signs of torture and request criminal forensic investigations when such cases arose. In 2016, jointly with the Centre for Human Rights, the training centre of the Supreme Court conducted training courses for judges on the Istanbul Protocol and lawyers on the documentation of torture and ill-treatment and, in 2018, training on investigations into torture was provided for over 70 staff members of the Office of the Procurator General. More than 150 training events relating to the Istanbul Protocol had been conducted during the reporting period.

9. Legislation on amnesty set out a list of offences for which an amnesty could not be granted, including acts of torture. Under the Framework on Political and Educational Work in the Armed Forces, approved in 2015 to provide training to members of the armed forces, a manual on the prevention of violations of the regulations on relations, suicides and offences in the armed forces and a guide on preventing, recording and investigating ill-treatment in the armed forces had been adopted. In addition, a manual had been introduced for the prevention and investigation of cases of hazing in the military. Between 2017 and 2018, some 125 criminal cases had come before the military courts, with around 160 persons convicted.

10. In 2014, the State Domestic Violence Prevention Programme for the period 2014–2023 had been adopted and the Code of Administrative Offences had been amended to establish liability for violations of legislation on domestic violence. The criminalization of domestic violence was currently being considered. Between 2015 and 2017 there had been a steady decrease in the number of cases of domestic violence brought before the courts. In 2017, just over 80 persons had been convicted for domestic violence. A penal system reform strategy for the period up to 2025 had been implemented to bring conditions of detention into line with international standards, better protect the rights of prisoners and reduce recidivism, among other objectives. New remand centres were under construction, including facilities for longer visits to detainees. The budget for correctional facilities had been increased and food provision had been improved. With an eye to strengthening victim protection, the Trafficking in Persons and Assistance to Victims Act had been passed, which established a list of offences involving trafficking in persons and improved the referral mechanism for victims.

11. **Ms. Gaer** (Country Rapporteur), welcoming the changes that had been made in the country, said that both the Special Rapporteur on torture and the Special Rapporteur on freedom of opinion and expression had expressed concerns about cases of torture, impunity for perpetrators and the Government's treatment of the opposition. While the State party might be undergoing a particularly difficult period, article 2 of the Convention provided that no exceptional circumstances could be used as a justification of torture. She asked which governmental body was competent to address human rights issues and what role the Ministry of Security played in the implementation of the Convention.

12. The report provided details of one of the three convictions for torture of law enforcement officers in the reporting period and she would like information on the two remaining cases, particularly the titles and sentences handed down and the articles of the Criminal Code under which the offenders were sentenced. She would appreciate it if the delegation could comment on NGO reports that, in one of those cases, a former criminal investigator from Sarband District had been given a suspended 2-year sentence in 2013 and, in another, a police officer had been sentenced to prison for 3.5 years by the Rogun City Court in 2015. Information before the Committee in general showed that, over a five-year period, only three persons had been convicted for torture, with a maximum prison sentence of 3.5 years. In addition, the rate of complaints resulting in criminal investigation was extremely low. She would be grateful for data on any other cases of torture or ill-treatment that had been brought before the courts under other articles of the Criminal Code. She asked whether data was collected in the State party to ensure that all complaints and investigations into cases of torture and ill-treatment received by the authorities were tracked, regardless of the article of the Criminal Code under which they had been filed. If that was not the case, would the State party consider setting up a data collection system to that effect?

13. She would like further information regarding the status of the criminal investigation into the case of Umar Bobojonov, who had been tortured in police custody in 2015 and had subsequently died of his injuries, including whether redress had been provided to his family pursuant to article 14 of the Convention. Concerning the investigation of complaints of torture, she asked what steps had been taken to make the necessary human, financial and material resources available to the Office of the Commissioner for Human Rights so that it could be accredited with category A status under the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and investigate allegations of torture more effectively. She would also appreciate updated information on the number of complaints of torture received and investigated by the Office during the reporting period, including how many cases it had referred to the Office of the Procurator General for criminal prosecution. It would be interesting to know what recourse the Office of the Commissioner for Human Rights had at its disposal in cases where the Procurator General declined to open a criminal investigation and whether efforts had been made either to strengthen the effectiveness of investigations into complaints of torture or ill-treatment by the Office of the Procurator General. Further information regarding the right of the Commissioner for Human Rights to visit and issue recommendations to all places of deprivation of liberty, including police premises and facilities under the authority of the Ministry of Internal Affairs, would also be welcome.

14. Regarding the monitoring of places of detention, she would appreciate updated data on the number of visits to detention facilities conducted by the Office of the Commissioner for Human Rights and the monitoring group composed of representatives of State bodies and the Civil Society Coalition against Torture and Impunity, including information on the number of acts of torture or ill-treatment identified during those visits and the status of any subsequent investigations. It would be particularly interesting to know how many independent visits the monitoring group had undertaken since its establishment in 2014, including the outcomes of those inspections, and whether additional resources had been made available with a view to strengthening its monitoring functions. She wondered whether the monitoring group had the right to interview detainees in private and to inspect all places of detention, including pretrial detention centres. She would also be interested to know whether NGOs had the right to conduct their own visits to detention facilities. Had a confidential, independent complaints mechanism been established for persons deprived of their liberty who had been subjected to torture or ill-treatment?

15. Concerning the allegations of torture involving high-profile political opposition figures, she would be grateful for updated information regarding the status of criminal investigations into the cases of Mahmadali Hayit, Rahmatullo Rajab and Umarali Husaynov, members of the Islamic Renaissance Party of Tajikistan who had been arrested by the national authorities following an alleged failed coup attempt. She would also like to know whether reports that the three men had been tortured by officials of the Police Unit for Combating Organized Crime while in pretrial detention had been formally investigated, and if so, by which authority. Referring to the case of Djovijon Khakimov who had allegedly been tortured while being held in incommunicado detention, she asked what efforts had

been made to bring the perpetrators involved to justice and end the use of police stations and office facilities of the Ministry of Internal Affairs as places of incommunicado detention.

16. Turning to the issue of fundamental legal safeguards, she asked what action had been taken to address the dramatic decrease in the number of practising lawyers following the amendments to the Bar and Advocacy Act governing the powers, rights and obligations of lawyers and the ensuring limited access of persons deprived of their liberty to an independent lawyer. It would be useful to know what steps had been taken to protect lawyers, as well as complainants and their families, from reprisals as a result of filing complaints of torture and to undertake investigations into any such cases. Further information on the status of the investigations into the cases of the lawyers Shuhrat Kudratov, Buzurgmehr Yorov, Nuriddin Mahkamov and Dzhamshed Yorov, who had allegedly been arrested, detained and prosecuted in retaliation for their work, would be welcome in that regard. It would particularly be interesting to learn more about the case of Firuz Tabarov, one of two sons of the lawyer Ishkok Tabarov who had been arrested and imprisoned based on a confession obtained using torture, including which authorities had been responsible for investigating his torture claims. She wondered whether the State party would drop the charges against the lawyers in the aforementioned cases pursuant to the recommendations made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and strengthen the ability of the public authorities to receive and effectively investigate reports of retaliation by public officials against victims of torture and their lawyers.

17. In respect of the State party's legal framework, she asked when the amendments to article 143 of the Criminal Code increasing the penalties for the crime of torture would come into effect and whether the proposed amendment would expressly prohibit the granting of amnesty to persons convicted of violating article 143[1]. She also wished to know whether the Government intended to lengthen the statute of limitations for acts of torture to 10 years. It would be useful to know whether, following the adoption of the proposed amendment, prosecutors, investigators and other officials would be prevented from terminating investigations into allegations of torture under article 143[1] of the Criminal Code on the grounds that the perpetrator had repented or reconciled with the victim. She would particularly welcome assurances that alleged perpetrators of acts constituting torture would be charged with violations of article 143[1] rather than other articles of the Criminal Code such as article 391 prohibiting the abuse of authority.

18. Regarding the programmes launched to combat domestic abuse, she wished to know what efforts had been made to address the underreporting of acts of domestic violence and to provide appropriate training to law enforcement officers, medical personnel and other officials so that they could identify victims more easily. She would appreciate the delegation's comments on allegations that police and other public officials often encouraged victims to return home and reconcile with their abusers rather than apply for a restraining order or press criminal charges. Further information on the sentences handed down to perpetrators of domestic violence and the number of restraining orders issued by the police during the reporting period would therefore be very welcome in that context. It would be particularly useful to receive updated information regarding the outcome of the pilot neighbourhood-based project to tackle domestic violence and the progress made by the working group tasked with deciding whether to make domestic violence a criminal offence.

19. On the subject of trafficking, she asked what the budget was for rehabilitation and support services to victims. She would appreciate receiving data on the number of victims that had benefited from State assistance programmes in recent years and on the prison sentences handed down to those convicted of trafficking.

20. With regard to the principle of non-refoulement, she asked how many deportations not constituting extradition had been carried out during the reporting period, and to what countries. How many individuals had been returned to Afghanistan? Had they all had access to the Office of the United Nations High Commissioner for Refugees (UNHCR) and the opportunity to apply for asylum? In general, she would like to know whether the State

party permitted UNHCR to carry out a refugee status determination for all those subject to deportation.

21. She would appreciate receiving statistics on the numbers of persons deported for having violated the residency restrictions in government decisions Nos. 325 and 328, and their destination countries and whether there were any plans to amend or repeal decision No. 325.

22. She wondered whether the Tajik authorities had investigated any allegations made by refugees of ill-treatment by officials of the State Committee for National Security seeking to deport them, and if so, whether any disciplinary measures had been taken.

23. Lastly, she asked whether the delegation could name any specific cases in which confessions had been ruled inadmissible on the grounds that they had been elicited through torture or ill-treatment.

24. **Ms. Racu** (Country Rapporteur) said that she welcomed the incorporation of torture prevention into the curricula of training institutes for judicial and law-enforcement personnel. She would like to know whether training on all the provisions of the Convention was mandatory for judicial, law-enforcement and prison personnel and whether courses were based on their real training needs. She would like to know how many such officials had received training in the Convention in recent years and how many still required training.

25. She asked whether the basic training curriculum for police and prosecutors covered the gathering of evidence and the conduct of interrogations without the use of unlawful measures, notably coercion. She wondered how many police officers had received training of that kind and how effective it had been. Were the police trained in the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials?

26. She asked whether police medical officers had received training in the Istanbul Protocol, as prison doctors had, whether the effectiveness of the training had been evaluated, and whether there had been an increase in the number of relevant injuries reported.

27. She took note of the information the State party had provided on the extensive training programme to prevent human trafficking but would also like to know what training officials received in dealing with cases of domestic violence and violence against children. She also wondered whether mandatory training on the use of force and measures of restraint was provided to military and intelligence officers and security guards.

28. Civil society access to places of deprivation of liberty was reportedly limited. The International Committee of the Red Cross (ICRC) had had no such access since 2004 and the activities of the Ombudsman's Office prison monitoring group were constrained by the requirement to be accompanied by Ombudsman's Office staff and by their lack of access to documentation and to detainees who had complained of torture or ill-treatment.

29. She would like to know what action had been taken to overcome the remaining obstacles to ratification of the Optional Protocol to the Convention and to expedite that process.

30. She would be interested to know how many inspections had been carried out, and to what effect, under the new procedure whereby prosecutors were required to inspect temporary holding facilities, holding centres and military detention barracks at least every five days and whether prisons were also inspected. She wondered how many recommendations had been issued.

31. The Committee had received reports that persons deprived of their liberty were sometimes categorized as "witnesses" rather than as suspects, and in other cases were detained on administrative charges or for the purpose of "conversations", which were not defined in law but were far from voluntary. She would like to know how the State party ensured that such witnesses were not subjected to torture. She would appreciate it if the delegation could clarify whether the recent amendments to the Code of Criminal Procedure included a definition of the moment when arrest began and whether persons held on administrative charges had the right to challenge the legality of their detention. She asked whether the status of suspects, accused persons and witnesses was defined in law and

whether each category enjoyed the same procedural safeguards from the moment of deprivation of liberty.

32. Noting that the State party had done nothing to put a stop to the practice of holding persons on administrative charges until they could be officially arrested as a suspect in a criminal investigation, she said that she would appreciate the delegation's comments on that situation.

33. The Committee welcomed the legislative amendments improving the legal safeguards for detainees, notably in respect of medical examinations and contact with family members and counsel.

34. However, the time limit of 72 hours from the moment of arrest before being brought before a judge remained in place despite the recommendations of the Human Rights Committee and the Special Rapporteur on torture. She would like to know whether any steps had been taken to reduce that period to 48 hours. Moreover, it would appear that the safeguards introduced under the recent amendments were not consistently applied. The experience of Mr. Djovidon Khakimov was a case in point: his remand hearing had reportedly taken place over a week after being taken into custody, including several days in incommunicado detention during which he had allegedly been tortured. His lawyer's request for a medical examination had been rejected and the Joint Task Force to Counteract Extremism and Terrorism, which comprised representatives of the Procurator General's Office, the Ministry of Internal Affairs and the State Committee for National Security, had subsequently concluded that he had not been subjected to physical abuse.

35. She would appreciate it if the delegation could provide information on the legal status of the short-term detention rooms in Ministry of Internal Affairs facilities, often used to hold those detained on suspicion of crimes.

36. The Committee welcomed the fact that the Code of Criminal Procedure now stated that detainees had the right of access to a lawyer from the moment of detention, but was concerned that in some cases investigators pressurized detainees to refuse legal assistance in order to avoid having to arrange for a lawyer's services or to avoid having a lawyer present during interrogation. In other cases, access to a lawyer was subject to the investigator's agreement, or meetings were not confidential, since an official usually remained in the meeting room. NGOs found it difficult to access the regulations of pretrial detention facilities governing access to lawyers, which were classified as "for internal use only".

37. She would appreciate receiving comprehensive statistics on all the complaints about non-application of fundamental safeguards submitted since the recent amendments had entered into force. She would like to know what the results had been and what steps the State party intended to take to improve detainees' access to a lawyer.

38. The adoption of the Policy Framework for Free Legal Aid had been a positive step and the Committee would be interested to know how many people had been granted free legal aid and pro bono assistance from lawyers.

39. The introduction of a form based on the Istanbul Protocol, for use by medical personnel when examining detainees and recording signs of torture was a welcome and progressive measure but had not been matched by subsequent practice. Detainees were examined by medical personnel who were not independent, being either employees of the Ministry of Internal Affairs or the prison administration, or supervised by the Ministry of Health. Indeed, there were no forensic medical institutions outside the government system and no legislation to regulate independent forensic examinations had been adopted. She would like to know whether there had been any change in the situation in respect of independent forensic examinations, including with regard to documentation of the psychological effects of torture. Similarly, she would appreciate information on any improvements made in medical care in police and prison establishments, including medical examinations on admission, the procurement of medication and equipment and the maintenance of medical registers on admission and before release from police custody. Did every detainee in prisons and police and pretrial detention facilities undergo routine medical examination, including a psychological evaluation, and was a copy of the results

provided to the detainee? In police facilities, did doctors receive training in identification of signs of torture?

40. Recalling that, in its previous concluding observations, the Committee had made various recommendations about video and audio recording in detention facilities, she asked the delegation which facilities had been equipped with video cameras and whether all interrogations were recorded on video. What other steps had been taken to comply with the Committee's recommendations and to ensure that the recordings were stored and made available to investigators and lawyers?

41. She asked what impact the new police bill would have on the use of force and arms and measures of restraint by law-enforcement officers.

42. She commended the State party for the significant improvements it had made in some prison facilities. However, conditions still did not always meet international standards and, according to some sources, were harsh and life-threatening. She would appreciate updated statistics on the prison population, with details of the specific prisons where overcrowding and poor conditions were worst. She would like to know what minimum living space per prisoner was provided for in law and what the budget allocation per prisoner was for food. What steps had been taken to combat overcrowding?

43. She wondered what percentage of the prison population was being held in pretrial detention and whether numbers had increased during the reporting period. She asked how the State intended to improve the conditions in the Vahdat remand centre and detention centre No. 1 in Dushanbe. The Committee wondered whether the new high-security prison currently under construction in Vahdat would meet international standards. It was also concerned about the transfer of authority for temporary and pretrial detention facilities from the Ministry of the Interior and the State Committee for National Security to the Ministry of Justice and would appreciate further information on that matter.

44. Further details on the reintegration, sports and vocational programmes available in prisons would be welcome. She would appreciate updated information on the disciplinary sanctions applied to prisoners and the rules governing the contact they were permitted to have with the outside world. She wished to know the average length of time that detainees spent in solitary confinement.

45. It would be useful to hear whether any changes had been made or would be made, either in law or in practice, to the harsh conditions of detention experienced by persons serving life sentences. It was unclear how many individuals were serving life sentences and whether they continued to be detained in pretrial facilities. Clarification on whether such prisoners were able to submit complaints of ill-treatment or to speak privately with monitors or prosecutors would also be welcome.

46. With regard to deaths in custody, she would be grateful for details of the outcomes of the investigations into the deaths of Kurbon Mannonov, Nozimdzhon Tashripov and Ismonboy Boboev. She would be grateful to hear whether any legislative changes had been instituted to make it mandatory to investigate deaths in custody. It would be useful to receive statistics on the number of suicides that had occurred in prisons in recent years and on the causes of deaths in custody.

47. While she welcomed the development of the State party's juvenile justice system during the reporting period, she wished to receive details of the number of minors who were being held in pretrial detention or serving custodial sentences. It was unclear whether minors were placed in solitary confinement and, if so, for how long. She wished to learn whether young people were held separately from adults in pretrial facilities and prisons. It would be useful to have an account of the alternatives to detention that were available for juvenile offenders, as well as the educational, vocational, recreational and rehabilitation programmes in place for young detainees. Data would be appreciated on the number of psychologists and social workers employed to work with young people in detention. She would welcome an update on the Government's plans to appoint specialized juvenile judges and prosecutors.

48. The Committee remained concerned about the widespread use of corporal punishment against children in homes and schools. It would be helpful to hear about the

measures being taken to prevent and prohibit such punishment in educational establishments, including special schools, and to raise awareness of the impact domestic violence had on children. She would appreciate the delegation's comments on whether there were any plans to establish a mechanism to provide protection and support for children who had experienced domestic violence.

49. It would useful to receive data on violence committed against lesbian, gay, bisexual, transgender and intersex activists. Information would be welcome regarding the situation of persons from that community in detention. She wished to hear about the complaints lodged by such persons in recent years in connection with torture and ill-treatment by police or abuse by non-State actors, and about the subsequent investigations and convictions in those cases.

50. She would welcome the delegation's comments on the measures that had been implemented to prevent violent behaviour, including the practice of hazing, in the armed forces and on the effectiveness of those measures. She would be grateful to receive statistics on allegations, complaints, investigations, prosecutions and convictions relating to hazing, torture and ill-treatment in the military. It would be helpful to have an account of the complaints mechanisms available to military personnel and of how many unit inspections had been carried out by military procurators and the outcomes of those inspections. It was unclear whether medical personnel working in the military enjoyed independence and whether they had been trained to detect and document signs of torture and ill-treatment.

51. **Mr. Rodríguez-Pinzón** (Country Rapporteur) said that it would be useful to have the full text of the Supreme Court decision in June 2012 regarding compensation and rehabilitation for victims of torture. He would welcome details of the legal nature of the judgment, including whether it was binding, and of how it contributed to combating torture. The Committee had received reports that victims of torture had been awarded compensation of between €100 and €5,300; he therefore wished to learn about any plans the Government had to adopt legislation that made clear provision for adequate compensation for victims of torture. It was unclear whether the Government intended to implement judicial guidelines limiting the degree of discretion afforded to courts in deciding the amount of compensation. He would welcome updated information on the number of compensation orders issued by the courts and the amounts awarded, including for individuals who had been subjected to torture between 1995 and 1999. It would be useful to hear how many applications for compensation had been submitted to the authorities. Clarification on the administrative channels available to victims so that they could seek compensation without needing to go through the courts would also be welcome.

52. He wished to learn about the plans and programmes in place to ensure access to compensation and rehabilitation, including whether medical, psychological, legal and social support was offered and the annual budget allocated to those initiatives. He would appreciate details of the number of doctors, psychologists and lawyers providing assistance to victims of human trafficking and domestic violence.

53. It would be helpful to hear the delegation's comments regarding the rehabilitation measures that had been provided in the six compensation cases that had been settled between 2012 and 2016. He would appreciate clarification of whether services offered to the victims in those cases had been provided by the authorities or by non-governmental organizations.

54. **Ms. Belmir** said that the Committee remained concerned about the wide discretion granted to the procurator's office under the Amnesty Act of 2011 to commute, reduce or suspend the sentences of persons convicted of torture.

55. **Mr. Hani** said that he wished to hear whether there had been any cases of the withdrawal of refugee status under the provisions of government decisions Nos. 325 and 328. He would appreciate receiving a breakdown of such cases by nationality and ethnicity, since the Committee had received information suggesting the targeting of Afghan refugees of Hazara ethnicity. He would be interested to learn whether there were any bodies in the State party that were competent to inspect psychiatric facilities and whether those facilities had mechanisms for receiving complaints of ill-treatment. Details regarding the number of

such complaints received and the outcomes of any investigations of them would be welcome.

56. **The Chair** said that, while he was encouraged by the fact that the World Health Organization had recognized the State party's START Plus Project as an example of good practice in the area of the management of tuberculosis in correctional facilities, he was concerned by the increasing rate of multidrug-resistant tuberculosis and of combined tuberculosis and HIV infections. He wished to know whether the authorities planned to include tuberculosis and HIV screening as part of the medical examination conducted when prisoners arrived at a detention facility, in order to determine whether infections occurred inside or outside the prison system.

57. With regard to the identification of cases of torture, it was unclear whether the Government intended to update the forms used by psychiatrists involved in the treatment of persons deprived of their liberty, in line with the provisions of the Istanbul Protocol.

58. **Ms. Gaer** said that it would be useful to receive an update on whether the State party intended to accept articles 21 and 22 of the Convention, including whether the Government had any specific concerns about the Committee's complaints procedure. She also wished to hear about any cases of coerced confessions and the relevant investigations.

The meeting rose at 12.55 p.m.